

ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, AMENDING CHAPTER 38 "FIRE PREVENTION AND PROTECTION" OF THE CODE OF ORDINANCES AND IN PARTICULAR, REVISING HIALEAH CODE § 38-161 ENTITLED "SCOPE AND LEGISLATIVE INTENT" AND HIALEAH CODE § 38-162 ENTITLED "INVOICES" TO CLARIFY THAT THE PAYMENT OBLIGATION FOR THE FIRE RESPONSE FEE ESTABLISHED IN THE FEE SCHEDULE FOR MOTOR VEHICLE ACCIDENTS OR FIRE INCIDENTS SHALL BE ON THE PARTY RECEIVING SUCH SERVICES AT THE SCENE OF THE ACCIDENT OR INCIDENT; REVISING TITLE AND FEE NAME THROUGHOUT THE PROVISIONS OF THE ARTICLE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Hialeah, Fla., Ordinance 06-16 (Mar. 14, 2006), the City of Hialeah enacted a motor vehicle accident/fire response fee; and

WHEREAS, subsequent to the adoption of the fire response fee, a number of insurance carriers have posed questions that require a clarification of the language of the ordinance; and

WHEREAS the purpose and intent of this ordinance is to revise the provisions of the ordinance to more clearly create a payment obligation for the fees established herein on the party or parties receiving the services in order to defray some of the costs of service and the amount of money collected shall be much less than operating costs or costs of services performed but in no event more than what the insurance carrier will be obligated to pay under the applicable insurance policy if one is available; and

WHEREAS, the Mayor intends to revise the fire fee schedule in conjunction with changes that are provided in the ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 38 (Fire Prevention and Protection), Article VI. Motor Vehicles Accident/Fire Response Fee, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended to read as follows:

Chapter 38

FIRE PREVENTION AND PROTECTION

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**ARTICLE VI. MOTOR VEHICLE ACCIDENT AND
FIRE INCIDENT/FIRE RESPONSE FEE**

Sec. 38-160. Short title; applicability; purpose.

(a) This article shall be known and may be cited as the “Motor Vehicle Accident and Fire Incident/Fire Response Fee Ordinance”.

(b) This article shall apply to all motor vehicle accident, fire and associated emergency responses within the boundaries of the city.

(c) The existence of a high level of fire rescue emergency response benefits the residents, visitors and nonresident business and property owners of the city. The benefits include motor vehicle accident and fire response and mitigation.

(d) The purpose of this article is to preserve an adequate level of fire rescue equipment, training and manpower, and also to meet existing and anticipated demand for services. The motor vehicle accident and fire incident/fire service fee requires that users of fire and emergency services contribute a fair, equitable and proportionate share of the operating and maintenance costs for services performed by the city’s fire rescue services. ~~This fee includes operational and maintenance costs.~~ Nothing in this article shall prohibit or restrict funding of fire rescue facilities, equipment, training and manpower from other sources to enhance fire rescue services.

Sec.38-161. Scope and legislative intent.

(a) All motor vehicle accidents and fire incidents that require a fire service response in addition to special training and equipment to be maintained by the fire rescue department to safely and professionally respond to these special incidents. As such, users of the fire emergency services shall pay for only such services as defined in the fee scheduled referenced in subpart (b). The fees recovered pursuant to this article shall be used to offset ~~shall assume~~ the operating costs of the response, including salaries of the personnel operating the trucks, the maintenance and supply costs for each truck or vehicle and transportation costs necessary to mitigate these incidents. Therefore, any motor vehicle or fire related response is subject to the assessment of a motor vehicle accident/fire response fee in the manner and amount set forth in this article.

(b) The fire department shall establish a motor vehicle accident/fire response fee and related services by adopting a fee schedule to be modified from time to time by the fire department as approved by the mayor, without further legislative action. A copy of such fee schedule is made a part of this section and is on file in the office of the city clerk.

(c) The fire chief shall have the authority to excuse the payment of a motor vehicle accident and fire incident/fire response fee authorized under this section for hardship if a person does not have the means or insurance to pay.

Sec. 38-162. Invoices.

The fire chief is hereby directed to issue invoices for such fire services, and to collect such fees on behalf of the city and to deposit such fees in the city's motor vehicle accident and fire incident/fire response fee designated account, which shall be used for the benefit of the fire department. The city shall bill the ~~insurance carrier of the responsible party or parties receiving the services and/or their insurance carrier, and in the case of services rendered at the scene of an accident or fire involving a motor vehicle, the vehicle owner's insurance carrier.~~ directly and shall collect only such amount that insurance covers under the applicable insurance policy.

Sec. 38-163. Designated account.

All motor vehicle accident and fire incident/fire response fees collected according to this article shall be deposited in the motor vehicle and fire incident/fire response fee designated account established and maintained by the city. Such trust account shall be so designated as a separate and distinct account.

Sec. 38-164. Expenditures.

Except as otherwise provide in this article, funds from the motor vehicle accident and fire incident/fire response fee designated account shall be used to defray operating costs of providing emergency services that include motor vehicle accident rescue and fire services, including, but not limited to, ~~including~~ salaries of the personnel operating the trucks, the maintenance and supply costs for each truck or vehicle and transportation costs necessary to mitigate these incidents.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections

of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

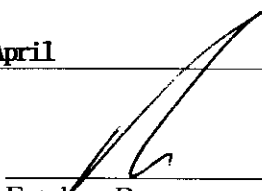
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and when signed by the Mayor or at the next regularly scheduled city council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 8th day of April, 2007.

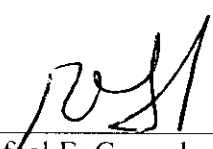
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



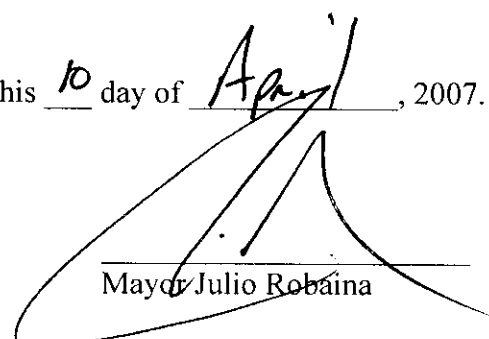
Esteban Bovo
Council President

Attest:

Approved on this 10 day of April, 2007.



Rafael E. Granado, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition

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Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".